
IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 4, 1867.

Read twice, referred to the Committee on Reconstruction, and ordered to be printed.

Mr. JAMES M. ASHLEY, on leave, introduced the following bill :

A BILL

To guarantee a republican form of government to the States of Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, North Carolina, South Carolina, Virginia, and Florida.

Whereas, in the years eighteen hundred and sixty and eighteen hundred and sixty-one, the inhabitants of the States of Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, North Carolina, South Carolina, Virginia, and Florida, changed the constitutions of their respective States in such wise as to make them repugnant and hostile to the Constitution of the United States ; and whereas, by certain acts of the Congress of the United States, the inhabitants of the States aforesaid were declared to be in a state of insurrection against the United States, which acts of Congress have never been repealed and are still in force ; and whereas the inhabitants of the States aforesaid made war upon the United States, were defeated, and surrendered themselves under the rules and usages of war ; and whereas the insurgent inhabitants of the States aforesaid, at the time of their surrender, were without State governments republican in form and in harmony with the Constitution of the United

States, and, as an insurgent population, were without authority to form State governments, or to perform any other political functions of right belonging to loyal citizens, and must so continue until relieved of their disabilities by the law-making power of the United States : Therefore—

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That the executive power in each of the States aforesaid shall
 4 be vested in a governor, to be appointed by the President of
 5 the United States, by and with the advice and consent of the
 6 Senate, who shall have been a citizen or resident of the State
 7 for which he is appointed for one year next preceding the
 8 date of such appointment, and who shall hold his office during
 9 one year, unless sooner removed by the President of the
 10 United States, by and with the advice and consent of the
 11 Senate; he shall be at least twenty-five years of age, and
 12 shall not be among the number of those who signed the ordi-
 13 nance of secession in any State, or who have held any office
 14 of honor, profit, or trust, whether military or civil, under the
 15 government of the so-called Confederate States, or under any
 16 of the States aforesaid of which the inhabitants were declared
 17 to be in a state of insurrection, or under any power or authority
 18 derived from the said Confederate States or said insurrectionary
 19 States, or shall have engaged in insurrection or rebellion
 20 against the United States, or given aid and comfort to the
 21 enemies thereof; and before the nomination of said governor

22 shall be acted upon by the Senate, his affidavit must be sent
23 into that body declaring that he does not belong to any of the
24 classes stated above.

1 SEC. 2. *And be it further enacted,* That the governor
2 shall be commander-in-chief of the militia of the State for
3 which he is appointed. He shall have power, by and with
4 the consent of the legislative council, to grant pardon for
5 offences against the laws of the State, to appoint and com-
6 mission all officers, civil and in the militia, whose appoint-
7 ments are not herein otherwise provided for, which now ex-
8 ist, or shall hereafter be established by law in the State. He
9 shall take care that the laws be faithfully executed.

1 SEC. 3. *And be it further enacted,* That from and after
2 the passage of this act the militia of each of said States shall
3 consist of all able-bodied men, not exempt by law, over the
4 age of eighteen years, and without distinction of race or color,
5 who have not in any way aided or abetted the recent rebellion.

1 SEC. 4. *And be it further enacted,* That the legislative
2 power of each of the States aforesaid shall be vested in the
3 governor and in thirteen of the most fit and discreet persons
4 of the State, to be called the legislative council, who shall be
5 appointed annually by the President of the United States,
6 from among such of the inhabitants as shall have resided at
7 least one year in the State, and shall possess the same quali-
8 fications as the governor, and not be of any of the classes to

9 which in this act it is declared the governor shall not belong;
10 and no nomination of a member of the legislative council
11 shall be acted upon by the Senate until his affidavit shall
12 have been sent in showing him to be qualified for office under
13 the provisions of this act. Nor shall any member of a legis-
14 lative council be removed by the President, unless by and
15 with the advice and consent of the Senate.

1 SEC. 5. *And be it further enacted,* That no person shall
2 be appointed or confirmed governor or member of a legisla-
3 tive council who is not a citizen of the United States; and no
4 person shall be deemed disqualified from holding the office of
5 governor, or member of the legislative council, or any other
6 office whatever, in any of the States aforesaid, by reason of
7 his being of any other than European descent.

1 SEC. 6. *And be it further enacted,* That from and after
2 the passage of this act no legislative body shall assemble or
3 have authority in any of the aforesaid States, except the
4 council provided for in this act; but the local governments
5 of the political corporations, now existing in said States, may
6 continue to act until otherwise ordered by the Congress or by
7 the legislative council of the respective States.

1 SEC. 7. *And be it further enacted,* That in each of the
2 aforesaid States all the acts doings, and ordinances of the
3 conventions which framed ordinances of secession, and all
4 the acts and doings and legislative enactments of the legisla-

5 tures and legislative bodies in said States, and all the acts
6 and doings, laws, regulations, and ordinances of the political
7 corporations of said States since the date of the ordinance
8 of secession in each State respectively, are hereby abrogated
9 and annulled, and declared to have had from the beginning
10 no force or effect in law; but the governor and legislative
11 council in each State shall have power to revise and declare
12 in force all such acts as they may deem proper, always
13 excepting such as are contrary to the Constitution and laws
14 of the United States, and such as are inconsistent with the
15 equality of all men before the law without distinction of race
16 or color, and excepting such as provide for the payment of
17 any debt or obligation incurred in aid of rebellion or insurrec-
18 tion against the United States, or any claim for the loss or
19 emancipation of any slave, or for the payment of any pen-
20 sions or bounties for services rendered to the so-called Confed-
21 erate States, or to any of the States aforesaid, from the first
22 day of January, eighteen hundred and sixty, until the passage
23 of this act.

1 SEC. 8. *And be it further enacted,* That the governor
2 and legislative council in each State shall have power to pass
3 laws on all the usual subjects of legislation, save and except
4 such as are excepted in the eighth section of this act; and
5 all acts passed by them shall, with the above exception, be

6 deemed valid, and be enforced until disapproved by the Con-
7 gress of the United States.

1 *SEC. 9. And be it further enacted,* That in the event of
2 a vacancy occurring in any office in said States, by the death,
3 resignation, disability, or expiration of term of office, the per-
4 son to succeed to and fill said office shall be appointed by the
5 governor, by and with the advice and consent of the legisla-
6 tive council, whether said office has heretofore been filled by
7 popular election or otherwise; and immediately upon his en-
8 tering on the discharge of the duties of his office, the gov-
9 ernor in each State shall call upon every officer in the State
10 in the militia, and in the executive and judiciary departments,
11 and in the political corporations of the State, to take and sub-
12 scribe an oath that he does not belong to any of the classes
13 from among which the governor cannot be chosen, except
14 the qualification of age, which affidavit must be filed in the
15 office of the secretary of state in each State, or person per-
16 forming his usual functions in each State, within sixty days
17 after the public proclamation of the governor calling upon
18 them to take the said oath; and if not filed within sixty days
19 by any officer, he shall be thereby rendered incompetent to
20 perform the duties of his office, and all his acts shall be treated
21 as null and void; and the person offending, by performing
22 such acts, shall be liable, on conviction before a competent
23 court, to a fine of not more than five hundred dollars and

24 imprisonment for not more than one year: *Provided*, That
25 whenever the governor and nine members of the legislative
26 council, at least, shall consent thereto, they may dispense any
27 one appointed by them to office from the obligation of taking
28 said oath, and require him to swear only that he is a loyal
29 citizen of the United States, and that he did not at any time
30 hold in the army of the so-called Confederate States or in any
31 military organization, whether on land or at sea, hostile to
32 the government of the United States, or in the militia of any
33 State, any office higher than the rank of colonel in the army,
34 or lieutenant in the navy; or any civil office higher than that
35 of justice of the peace, or other local county or parish office,
36 or office in a political corporation. That the power of dis-
37 pensation shall apply to no other classes than those above
38 enumerated, and to no officer appointed by the said governor
39 and legislative council, higher than the rank of captain in the
40 militia, or higher than justice of the peace, or be otherwise
41 applicable than to local officers of counties, parishes, and
42 political corporations.

1 SEC. 10. *And be it further enacted*, That in each of the
2 aforesaid States all judgments and decrees of court, which
3 have not been voluntarily executed, and which have been
4 rendered subsequent to the date of the ordinance of secession
5 in each State respectively, shall be subject to appeal to the
6 highest court in the State in which jurors are empanelled,

7 organized after the governor and legislative council shall
8 have entered upon the discharge of their duties, and there
9 tried de novo; but no such appeal shall be allowed, unless the
10 motion for the same shall have been lodged in the court, or
11 clerk's office of the court, in which the decree was rendered,
12 within one year after the governor appointed under the pro-
13 visions of this act shall have entered upon the discharge of
14 the duties of his office, and for all judgments rendered subse-
15 quent to the said date, one year after the same have been ren-
16 dered.

1 SEC. 11. *And be it further enacted*, That grand and petit
2 jurors shall continue to be drawn and empanelled as now
3 provided by law in each State, but no person who knows
4 how to read the English language shall be held disqualified as
5 a juror on account of his race or color, and the jury lists shall
6 be formed from those citizens of the United States, residents
7 in each jurisdiction, who are over the age of twenty-five
8 years: *Provided*, That they are of the classes of which the
9 governor and legislative council may be chosen, and have not
10 served in the rebel army or navy.

1 SEC. 12. *And be it further enacted*, That the governor
2 in each State shall receive a salary of five thousand dollars,
3 and the members of the legislative council a salary each of
4 three thousand dollars a year, to be paid out of the Treasury
5 of the United States; the salaries of all other State officers,

6 their fees and official emoluments, shall remain as now pro-
7 vided by law until changed, and shall be paid according to
8 existing laws.

1 SEC. 13. *And be it further enacted,* That so soon as it
2 shall become apparent to the Congress that the people of any
3 one of the aforesaid States have sufficiently returned to their
4 obedience to the Constitution and laws of the United States,
5 the Congress shall pass a joint resolution to that effect: and
6 thereupon the governor of such State, by and with the con-
7 sent of the legislative council, shall appoint one or more dis-
8 crete persons in each county or parish of said State, who does
9 not fall within any of the classes excepted in this act, who
10 shall proceed to make a census and enrolment of all the male
11 citizens of the United States, over the age of twenty-one
12 years, residing for one year previous to said enrolment in his
13 district, and without any distinction of race or color, giving
14 the name and residence of each of such persons.

1 SEC. 14. *And be it further enacted,* That on the com-
2 pletion of these enrolments the governor shall invite all per-
3 sons whose names appear thereon to attend, within a delay
4 of thirty days from the date of the governor's proclamation,
5 before the said officers appointed to make the census and
6 enrolment as aforesaid, and declare, on oath, that they are
7 loyal citizens of the United States, and that they desire to
8 form a State government loyal to the United States, and

9 founded on the recognition of equality before the law of all
10 men, without distinction of race or color; and if it shall
11 appear that such voluntary declarations have been made by
12 a number of persons equal to two-thirds of the whole num-
13 ber of votes cast at the presidential election of the year
14 eighteen hundred and sixty, in said State; or in case, in any
15 State, presidential electors were not chosen by popular vote,
16 then a number equal to two-thirds of the aggregate votes
17 cast at the election for members of the legislature next pre-
18 ceding said presidential election, the governor shall then
19 order an election to be held in each county or parish for
20 members of a convention to frame a State constitution, which
21 election shall be held in not less than sixty nor more than
22 ninety days from the date of issuing the said proclama-
23 tion.

1 SEC. 15. *And be it further enacted,* That in each State
2 the constitutional convention shall consist of the same number
3 as the most numerous branch of the State legislature in the
4 State prior to eighteen hundred and sixty, and the election
5 shall be conducted according to the law in existence at that
6 time, and the returns made as therein directed, the whole
7 subject to such changes as the governor and legislative
8 council may deem proper; but no one shall be excluded from
9 eligibility to said convention by reason of his race or color,
10 provided he can read and write the English language,

11 and provided further he be not among the number of
12 those classes from which, by this act, the governor and coun-
13 cil cannot be chosen ; no one of which classes shall be eligible.

1 SEC. 16. *And be it further enacted,* That the voters
2 qualified to choose members of the constitutional convention
3 shall be only those whose names are inscribed on the lists of
4 voluntary declarations in favor of a loyal State government,
5 and of equality before the law.

1 SEC. 17. *And be it further enacted,* That the constitu-
2 tional convention be required to insert in the constitution, as a
3 fundamental condition, never to be changed without the con-
4 sent of the Congress of the United States, that no person be-
5 longing to any of the classes from which the governor can-
6 not be chosen by the terms of this act, shall be admitted to
7 hold any office in the State of honor, profit, or trust, until
8 relieved of disability by act of Congress ; that slavery be
9 forever prohibited, and the freedom and equality of all men
10 before the law guarantied in said State ; and that no debt,
11 State or confederate, nor any debt or obligation incurred in
12 aid of insurrection against the United States, nor any claim
13 for the loss or emancipation of any slave, nor any pension or
14 bounty for any service in the insurrection, shall ever be paid
15 or recognized by said State. That free public schools for all
16 children between the ages of five and twenty years, without
17 distinction of race or color, shall be established and main-

18 tained in each State. That a loyal militia shall be organized
19 in each State.

1 SEC. 18. *And be it further enacted,* That upon the adop-
2 tion of such constitution by the convention, it shall be sub-
3 mitted to the votes of those who voted for the members of
4 the convention or were qualified as such ; and if ratified by a
5 majority of the votes cast, the governor shall so certify to the
6 President of the United States, who shall thereupon submit
7 the matter to Congress ; and when Congress shall have
8 approved said constitution, the President shall, by proclama-
9 tion, declare such constitution to be the form of government
10 of the State, and that the said State is then fully restored to
11 the Union.